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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,417	04/21/2004	Hyeong-seok Ha	Q80321	4536

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EXAMINER	
PHILIPPE, GIMS S	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
08/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/828,417	HA ET AL.	
	Examiner	Art Unit	
	Gims S. Philippe	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21 and 24-30* is/are rejected.

7)☒ Claim(s) *22-23* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendment

1. Applicant's response received on May 27, 2008 in which claims 14 and 22 were amended, and claim 21 was canceled has been fully considered and entered, but the arguments are not deemed to be persuasive.

Response to Arguments

The applicant argued that the claim 1 citing "preparing tag information describing a plurality of pictures, and determining one of the plurality of picture to be the reference picture" is not anticipated by Wu. The examiner respectfully disagrees since such limitations are present in the cited passages of paragraphs 9 and 39.

The applicant further noted that it appears that the examiner relies on the tagging in Wu as teaching the tag information in claim 1.

In response to the section relied upon by the examiner as argued by the applicant, the examiner will confirm with the applicant that claim 1 is broad enough that the section of Wu referred to does disclose the claimed limitation.

The applicant further argues that although Wu discloses generating a hierarchical summary based on key frames of a video sequence, this hierarchical summary is not referred to determine any reference picture. The examiner respectfully disagrees since the key frame of as disclosed in Wu is a representative frame. To the examiner, claim 1 does not distinguish over the prior art. To the examiner, the tag information can be found in the key frame; and the information will facilitate the browsing as disclosed in

Wu. While the applicant is insisting on the fact the prior art and the claimed invention are different, the claim is given its broadest interpretation.

While the applicant is arguing that the prior art and the claimed invention are different, to the examiner, the idea behind the invention is similar to the method of extracting key frames in Wu. To the examiner, the invention as claimed calls for indexing as disclosed in Wu paragraph [0070].

The invention as claimed calls for information describing a picture and determining reference picture. The invention further calls for motion estimation. These processes are well known processes in MPEG. On the other hand it appears that the applicant is arguing the invention calls for a label (tag information) describing pictures . While the arguments want to differentiate the prior art from the claimed invention, it is rather hard for the examiner not to look at the claim broadly. In a broad sense, the claim will be interpreted differently as the applicant intended due to the fact that the simplistic form of the claim is misleading. In order to advance prosecution, the applicant must make an effort to present the claims in a manner directed to the invention. The term of art "tag" in MPEG has its own meaning as shown in Wu paragraph [0009]. The arguments presented by the applicant appear to be referring to a tag of an item not a picture per say.

The rejection will be repeated below for the sake of completeness.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7-10, 13-17, 20-21, 24-25, 27 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Wu et al. (US Patent Application Publication no. 2006/0193387 A1).

Regarding claim 1, Wu discloses a method of determining a reference picture for blocks constituting a current picture (See Wu's Abstract), the method comprising preparing tag information describing a plurality of pictures (See Wu paragraph [0009]; and determining one of the plurality of pictures to be the reference picture by referring to the tag information (See Wu paragraph [0009, and 0039]).

As per claims 8-9, 14-15, 21, 24, 27 and 29 Wu discloses a method and apparatus for decoding a bitstream having encoded moving picture data, the apparatus comprising a memory unit which stores a reference picture, wherein the reference picture is obtained by performing a motion estimation process on blocks constituting a portion of a current picture by using pictures indicated by a reference index list (See Wu fig. 6, items 610, 611, and 612, and paragraph [0009]), determining a reference picture based on a result

of the motion estimation process, performing a monitoring process on tag information attached to the determined reference picture, and determining a reference picture for blocks constituting another portion of the current picture based on a result of the monitoring process, wherein the current picture constitutes the encoded moving picture data (See We paragraphs [0032, and 0039-0042]); a motion vector decoding unit which decodes the motion vector extracted from the bitstream; and a motion compensation unit which performs a motion compensation process by using a reference picture read from the memory and a motion vector provided by the motion vector decoding unit (See Wu paragraph [0033]).

As per claim 10, 7, 25, most of the limitations of these claims have been noted in the above rejection of claims 8, 22 and 24. In addition, Wu further provides reference pictures indicating big motion or global change (See [0011]).

As per claims 13, 16 and 20, most of the limitations of these claims have been noted in the above rejection of claim 11. In addition, Wu' step of selecting the potential key frames along with the step of generating global motion signals will show the picture residual error (See figs. 1 and 4).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2-3, 5-6, 10-12, 17-19, 26, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. (US Patent Application Publication no. 2006/0193387 A1) in view Gelissen (US Patent Application Publication no. 2005/0114887 A1).

Regarding claims 2-3, 5-6, 10-12, 17-19, 26, 28 and 30, most of the limitations of these claims have been noted in the above rejection of claims 1, 8, 14, 24, 27 and 30.

It is noted that although Wu suggests performing a motion estimation and determining reference picture (See Wu paragraph [0043, lines 1-7]), It is silent about the priority picture assignment as claimed.

However, Gelissen suggests assigning priority to a picture based upon at least the tag information (See Gelissen paragraphs [0018], [0032, lines 7-24], [0033, lines 4-8]).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying Wu's motion estimation step by incorporating Gelissen's step of assigning priority to a picture based upon at least the tag information. The motivation for performing such a modification in Wu is to use parameters to prioritize in order to control the performance of scalable decoders as taught by Gelissen (See Gelissen [0033]).

6. Claims 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gims S Philippe
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